

# **Exhibit 21**

## **to Declaration of Rachel Doughty**

# Desert Sun.

## ENVIRONMENT

# Arrowhead bottler: Most water piped from national forest is returned to ground or supplied to tribe

**Janet Wilson** Palm Springs Desert Sun

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Facing criticism for wasting water during droughts, the company that pipes water out of a Southern California national forest to sell under the Arrowhead brand says 90% of the water it takes is returned to the same watershed or supplied to a Native American tribe.

In April, a new company called BlueTriton Brands took over Nestle's North American bottled water operations, including Arrowhead. That month, state water officials issued a draft order telling Nestlé to stop taking most of the water it pipes out of the San Bernardino National Forest. Nestle had faced years of regulatory probes and public outcry over the bottling and sales. State officials said the finding applies to BlueTriton, which appealed it.

In a presentation on its website that month, BlueTriton said that "the water system that supplies Arrowhead Brand 100% Mountain Spring Water is a small part of a large watershed." In the graphic, it said of the 59 million gallons taken from Strawberry Canyon in 2020, nearly 41 million gallons, or 70%, was "overflow" that was returned to the same watershed.

A BlueTriton spokesman did not respond to questions about the meaning of overflow, and why so much water is piped out, only to be returned.

In an emailed statement, Larry Lawrence, natural resource manager for BlueTriton, said unused flow formerly was returned to the watershed at the bottom of their collection system. That is several miles below the withdrawal point.

However, he said as part of required ongoing studies of the watershed with the U.S. Forest Service, the overflow system had now been moved back up "into the forest just below where spring water is collected."

BlueTriton also said it supplies the owner of the shuttered Arrowhead Springs Hotel with 20% of all water the company collects, or 11.8 million gallons in 2020. The San Manuel Band of Mission Indians bought the historic hotel property in 2016.

"Going back to 1934, there has been a recorded agreement between the owner of the Arrowhead Springs hotel and the water rights holder to provide 20% of the annual water that (is) collected from the gravity-fed pipeline to the hotel owner. This agreement is still maintained," said a BlueTriton spokesman.

A representative of the tribe said it had no comment about the agreement or what it does with the water.

Critics say piping any water from a public forest for private use, especially during a drought, is wrong. Opponents of the practice also contend that records show neither BlueTriton nor the San Manuel tribe has valid rights to the water from the creek, about 70 miles east of Los Angeles.

The company's contention that it "returns" much of the water to the watershed has also raised concerns among environmentalists.

"Dumping unused forest water during a drought is a major violation of public trust," said Amanda Frye, an area environmentalist who has fought to stop the water diversions for years. "That water should be flowing in the creek to the valley below, for use by (public) water districts in the basin."

Frye said she discovered the graphic on the company website in April, and submitted it to state water board officials.

"I was surprised that BlueTriton would proudly publish such information demonstrating waste," said Frye.

The company declined to respond to Frye.

Frye had harsh words for federal officials, saying the San Bernardino National Forest, was set up in 1893 to preserve natural resources like timber and water.

"What is wrong with the U.S. Forest Service? They are supposed to manage the resources, including the water," said Frye in an email. "The SBNF was founded to protect the watershed. Most of California's water supply starts in the mountains and forests!"

San Bernardino National Forest spokesman Zachary Behrens said he could not immediately respond to Frye's criticism of the forest service's actions.

He confirmed that as part of an ongoing "adaptive management plan" approved in 2018, Nestle and now BlueTriton were required to "add pressure control valves to facilitate periodic water release within the Forest Service land boundaries when overflow conditions exist, diverting the water back to the stream. This requirement has been completed on the ground."

He could not immediately define "overflow conditions."

BlueTriton says in 2020 "only" 6.4 million gallons (19.64 acre-feet) of forest spring water was shipped to a nearby factory to be bottled as Arrowhead brand 100% Mountain Springs Water.

But state water board staff has said the company is only entitled to about a third of that each year — 2.5 million gallons ( or 7.6 acre-feet).

Gerald Clarke, a UC Riverside professor of ethnic studies and a member of the Cahuilla Band of Indians based in Anza, said he would not comment on the San Manuel tribe receiving water from the forest, or any other tribe's actions.

He said he is familiar with the history of Nestle and other companies taking water for private profit from public lands.

"Frankly, I think America does a really good job of convincing us the federal government is looking out for us, that we're all equal," he said. "I think if the average person knew in actuality that the federal government is selling water really cheap to a corporation ... I think they would be surprised, and I think they would be uncomfortable with that."

San Bernardino National Forest spokesman Zachary Behrens said just under \$2,000 was paid for the permit last year allowing water to be piped from the forest. He was not sure if the bill was paid by Nestle or BlueTriton. BlueTriton does not have its own permit, but is operating under Nestle's, he said.

Food and Water Watch, a national environmental group, also criticized BlueTriton and other operations in California that bottle water in a new report published this week.

"While Food & Water Watch has always opposed bottled water, during a historic drought the moral imperative for ending this practice is crystal clear," the report said. It urged passage of a state law to ban the practice, noting that California is home to 97 water bottling plants. It called BlueTriton's operations "the most egregious of these."

BlueTriton Brands was formed after Nestlé sold the water business to Metropoulos and Co. and One Rock Capital, which are U.S. private equity firms.

"California should not allow the interests of a private equity firm to take precedence over the interests of the public," said Mary Grant, water policy expert for Food & Water Watch. "The corporation should immediately cease all diversions from the National Forest. Especially in a drought, this is an egregious abuse of water."

BlueTriton and Nestle have argued in legal pleadings filed with the state water board that they are entitled to every drop of water they pipe from Strawberry Creek — including the 59 million gallons they took last year — based on decades-old contracts and a five-year permit from the forest service received in 2018.

Frye and attorneys for environmental groups say that is untrue, that the rights were invalidated long ago and do not apply to a national forest in any case.

State water staff, after a lengthy probe, concluded much smaller water rights exist. A hearing by the state board is expected early next year. Nestle and BlueTriton face potential hefty fines if the board agrees with its staff investigators. National forest officials have said they could cancel their permit too.

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